

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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9 VINCENT DANDURAND,)
10 Plaintiffs,) 2:07-cv-887-LRH-RJJ
11 vs.)
12 LEONARD STONE, etc., *et al.*,) REPORT & RECOMMENDATION
13) OF UNITED STATES
14 Defendant,) MAGISTRATE JUDGE

15 This matter is before the undersigned Magistrate Judge on the failure of the Plaintiff to
16 appear for a status conference scheduled for September 20, 2007, at 10:30 A.M. (*See*, Order (#2).

17 The Court having reviewed this matter makes the following findings:

18 1. On August 29, 2007, the Court issued an Order (#2) scheduling a status
19 conference for September 20, 2007, at 10:30 A.M. Order (#2)
20 2. The Order (#2) was sent to Plaintiff, Vincent Dandurand at his address of record
21 by certified mail. However, the mail was returned, marked "Return to Sender
22 MOVED". Returned Mail (#4).
23 3. Plaintiff, Vincent Dandurand, did not appear at the hearing and further, failed to
24 advise the Court of a reason for his non-attendance.
25 4. Plaintiff has not kept the Court advised of his current address.
26 5. The Court is unable to contact Plaintiff, therefore, it is not possible to determine
27 Plaintiff's eligibility for *in forma pauperis* status.

1 6. Upon review of Plaintiff's Complaint (Attachments 1 and 2 to the Application For
2 Leave to Proceed *In Forma Pauperis* (#1)), the Court finds the Complaint has no
3 basis in the law and further, finds the Complaint does not and probably cannot,
4 state a cause of action under 42 U.S.C. § 1983.

5 || Good cause appearing therefore,

RECOMMENDATION

7 IT IS THE RECOMMENDATION of the undersigned Magistrate Judge that this case be
8 dismissed with prejudice. The clerk shall serve this Report & Recommendation on the Plaintiff,
9 Vincent Dandurand, by certified mail, return receipt requested.

NOTICE

Pursuant to Local Rule IB 3-2 [former LR 510-2] any objection to this Report and Recommendation must be in writing and filed with the Clerk of the Court within ten (10) days after service of this Notice. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986). This Circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991); Britt v. Simi Valley United Sch. Dist., 708 F.2d 452, 454 (9th Cir. 1983).

20 DATED this 15th day of October, 2007.

Robert J. Johnston
ROBERT J. JOHNSTON
United States Magistrate Judge